

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON EDUCATION AND CULTURAL RESOURCES**

**Call to Order:** By **CHAIRMAN DARYL TOEWS**, on March 8, 1999 at 3:00 P.M., in Room 402 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Daryl Toews, Chairman (R)  
Sen. Bill Glaser, Vice Chairman (R)  
Sen. Jon Ellingson (D)  
Sen. Alvin Ellis (R)  
Sen. John Hertel (R)  
Sen. Bob Keenan (R)  
Sen. Debbie Shea (D)  
Sen. Mike Sprague (R)  
Sen. Jack Wells (R)

**Members Excused:** Sen. Spook Stang (D)  
Sen. Mignon Waterman (D)

**Members Absent:** None.

**Staff Present:** Eddye McClure, Legislative Branch  
Janice Soft, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 304, 2/23/1999; HB 301,  
2/23/1999; HB 125, 2/23/1999  
Executive Action: None

#### **HEARING ON HB 304**

**Sponsor:** REP. MARK NOENNIG, HD 9, Billings

**Proponents:** Lance Melton, Montana School Boards Association  
Kate Stetzner, Superintendent, Butte Schools

**Opponents:** None

**Opening Statement by Sponsor:**

**REP. MARK NOENNIG, HD 9, Billings,** said **HB 304** was brought at the request of the school boards and related to the bidding requirements for projects. Existing language required bids whenever there was building, furnishing, repairing or other work to be done for the district if the amount exceeded \$15,000. The Montana School Boards Association (MSBA) thought they had the right to secure professional services without going through the bidding process because they wanted the best person for the job, not necessarily the lowest bidder. However, there was a county attorney's opinion that those services also required a bid; therefore, the bill included a list of professional services, which were the same as those included in the state bidding laws.

**Proponents' Testimony:**

**Lance Melton, Montana School Boards Association (MSBA),** said they strongly supported **HB 304** because specific bidding laws for Montana school districts in Title 20 had never been changed as they had been for state and local governments. He said schools wanted to be on the same footing as other areas of government in terms of the bidding process. They didn't want to increase the bidding threshold of \$15,000; rather, they wanted clarity on what was and was not subject to bidding. He said he heard the addition of "accountants" would be suggested and he concurred because Section 2-7-506 talked about accounting services on behalf of local governments and had a process based on qualifications rather than cheapest price. He said there was administrative rule criteria for the selection of an independent auditor.

**Kate Stetzner, Superintendent, Butte Schools,** said she supported the bill and also supported adding "accountants". She distributed copies of current law and administrative rule **EXHIBIT (eds52a01)** and said they were concerned if they were required to take the lowest bid they may not be getting the best amount of expertise and experience.

**Opponents' Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. DEBBIE SHEA** asked the sponsor if he would be friendly to that amendment and **REP. MARK NOENNIG** affirmed.

**Closing by Sponsor:**

**REP. MARK NOENNIG** said he closed.

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**HEARING ON HB 301**

**Sponsor:** **REP. MATT MCCANN, HD 92, Harlem**

**Proponents:** Lance Melton, Montana School Boards Association  
Don Waldron, Montana Rural Education Association  
Judith Gosnell-Lamb, Director, Big Sky Special Needs  
Coop  
Bill Cooper, Office of Public Instruction  
Dick Cameron, Superintendent, Harlem Schools  
John McNeil, Superintendent, Savage Schools  
Loran Frazier, School Administrators of Montana  
Eric Feaver, Montana Education Association & Montana  
Federation of Teachers

**Opponents:** Lynn Harris, Board of Speech Pathologists &  
Audiologists (BSPA)  
Teri Bean, BSPA  
Linda Solem, Speech Pathology & Audiology Licensing  
Board (SPAL)\_  
Sheila Skinner, SPAL  
Jeff Griffin, Montana Speech Hearing Board  
Kitty Griffin, Speech/Language Pathologist  
Victoria Sandberg, Mother  
Carol Lode, Mother  
Kathleen Dolezal, Mother  
Mary Anne Molineux, Speech/Language Pathologist

**Opening Statement by Sponsor:**

**REP. MATT MCCANN, HD 92, Harlem,** said **HB 301** accommodated Montana's children because under present licensing laws only those with masters degrees could be licensed to provide services to the children; unfortunately, there were not enough licensed individuals available to serve those needs. This bill would allow a limited exemption from the masters level of licensure in situations where a licensed individual could not be found. He

stressed this bill was not a wide-open exemption from licensure because certain circumstances had to be present before it applied: (1) The school district had to advertise for the position but couldn't receive even one application from a licensed individual; (2) The school district had to hire the most qualified unlicensed individual who needed at least a bachelors degree in Communication Science Disorders; (3) The individual hired had to be making satisfactory progress toward obtaining licensure within three years of the date of hire; (4) The school district had to re-advertise the vacancy each year and could continue to employ an unlicensed individual only if no licensed person applied; (5) The individual couldn't work in this capacity more than three years in Montana because of the sunset on **HB 301**.

**Proponents' Testimony:**

**Lance Melton, Montana School Boards Association (MSBA)**, read his written testimony **EXHIBIT**(eds52a02).

**Don Waldron, Montana Rural Education Association (MREA)**, read his written testimony **EXHIBIT**(eds52a03).

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**Judy Gosnell-Lamb, Director, Big Sky Special Needs Cooperative, Conrad**, read her written testimony **EXHIBIT**(eds52a04).

**Bill Cooper, Office of Public Instruction (OPI)**, said OPI supported **HB 301** because it was a reasonable solution to a frustrating problem in the field.

**Dick Cameron, Superintendent, Harlem Schools**, read his written testimony **EXHIBIT**(eds52a05).

**John McNeil, Superintendent, Savage Schools**, said their co-op was short of aides and had two part-time speech pathologists. A lady with a bachelor's degree moved into the district but had to take a year to travel to North Dakota to complete her degree so she could be hired into their district. This bill would have allowed the Savage district to hire her and she could have earned her education during the summers for the next three years. He said he didn't see **HB 301** as endangering the speech pathologists or their positions because it allowed them to be hired and because the issue to hire the most qualified person was revisited each year.

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**Loran Frazier, School Administrators of Montana (SAM)**, said he felt the desire of both the opponents and proponents was to make the best decision for children. He stated SAM were advocates for children and they supported **HB 301**; however, he cautioned the Committee to consider the needs of the children before making a decision on the bill.

**Eric Feaver, Montana Education Association (MEA) & Montana Federation of Teachers (MFT)**, said they supported the bill, though some of their members didn't concur. He drew the rest of his testimony from **EXHIBIT(eds52a06)**, **EXHIBIT(eds52a07)**, **EXHIBIT(eds52a08)** and **EXHIBIT(eds52a09)**.

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**Opponents' Testimony:**

**Lynn Harris, Board of Speech Pathologists and Audiologists**, read her written testimony **EXHIBIT(eds52a10)** and distributed **EXHIBIT(eds52a11)** and **EXHIBIT(eds52a12)**.

**Teri Bean, Board of Speech Pathologists and Audiologists**, read her written testimony **EXHIBIT(eds52a13)**

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**Linda Solem, Speech Pathology & Audiology Licensing Board**, read her written testimony **EXHIBIT(eds52a14)** and referred to **EXHIBIT(eds52a15)** and **EXHIBIT(eds52a16)**.

**Sheila Skinner, State Licensure Board of Speech Pathologists & Audiologists**, read her written testimony **EXHIBIT(eds52a17)** and referred to **EXHIBIT(eds52a18)**.

**Jeff Griffin, Montana Speech/Hearing Board**, used **EXHIBIT(eds52a19)** for his testimony.

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**Kitty Griffin, Speech/Language Pathologist**, read her written testimony **EXHIBIT(eds52a20)**.

**Victoria Sandberg, Mother**, said her handicapped child had been receiving speech therapy since she was about two years old. She said her daughter's speech was still delayed and doctors couldn't come up with a diagnosis of her problem. If qualified speech therapists had not dealt with her, she would not be at her current level, i.e. someone at a bachelor's level would not have

known what to do to get the speech to come. She said it was objectionable to her that this legislative body would work to circumvent the safeguard put into place to protect Montana's children. There was a critical period in a child's life in which he or she would learn speech; if the unlicensed, inexperienced people were allowed those three years, those years could be extremely detrimental. She urged the Committee to defeat **HB 301**.

**Carol Lode, Mother**, read her written testimony **EXHIBIT(eds52a21)**.

**Kathleen Dolezal, Mother**, read her written testimony **EXHIBIT(eds52a22)**.

**Mary Anne Molineux, Speech/Language Pathologist**, read her written testimony **EXHIBIT(eds52a23)**.

**EXHIBIT(eds52a24)**, **EXHIBIT(eds52a25)**, **EXHIBIT(eds52a26)**, **EXHIBIT(eds52a27)**, **EXHIBIT(eds52a28)**, **EXHIBIT(eds52a29)** and **EXHIBIT(eds52a30)** were also submitted as testimony.

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**Questions from Committee Members and Responses:**

**SEN. JON ELLINGSON** asked about the issue of whether it was better for these children not to have any attention at all rather than have a person with just a bachelor's degree. **Eric Feaver** said he couldn't comment; however, the testimony of the professionals had been heard so the Committee would have to decide whether that was an appropriate judgment.

**SEN. JACK WELLS** asked about parental consent and wondered if that should be included in the bill. **REP. MATT MCCANN** said currently pathologists touched each school and aides provided the services. He declared these people were not professionals so he suggested this bill was better than current law.

**SEN. WELLS** suggested if this bill passed, there was no provision to notify parents. He wondered if it would be useful to notify parents that the person providing the services had only a bachelor's degree and then ask for parental consent. **REP. MCCANN** said he didn't have a problem with addressing it. He again stressed the idea behind bachelors degree people was not replacement; rather, it was to work in a capacity to help children but not to diagnose or treat.

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**SEN. JON ELLINGSON** asked if the Board would rather see the current level of care than that which was proposed by the bill.

**Lynn Harris** said the new rules enacted by the Licensure Board several months ago allowed for three levels of aides: (1) People who were currently practicing as aides with 20% supervision and a licensed speech pathologist in charge of the programming; (2) Aides with bachelor's degrees who were not currently enrolled in a graduate program and who would need less supervision, but needed to work with a licensed speech pathologist; (3) People with bachelor's degrees who were enrolled in a graduate program could treat children but would still need supervision by a licensed pathologist. In other words, no aides would be performing services without the supervision of a licensed speech pathologist.

**SEN. ELLINGSON** asked how much supervision, under the new proposed rules, would be necessary by a licensed speech pathologist for a person with a bachelor's degree in speech pathology. **Linda Solem** said the bachelor's level person was under the supervision of a fully licensed speech therapist who was responsible for whatever that bachelor's level person did, i.e. ensuring the bachelors person knew and understood rules & regulations, how to conduct a Child Study Team, do evaluations, etc.

**SEN. BILL GLASER** asked when the bill draft request was turned in. **REP. MCCANN** said it was prior to December 7, 1998.

**SEN. GLASER** asked if the bill draft was active at the time the rules started. **Linda Solem** said the discussion on the proposed rules was initiated prior to the drafting of the House bill. The legislative council bill drafter asked for information regarding the possible opening up of the licensure act. She said she gave him the first draft of the proposed rules which had gone through the hearing process; at that point, the bill had begun to be drafted.

**SEN. GLASER** said he was looking at the comments and responses and the whole thing reeked of a traditional turf battle.

**SEN. DARYL TOEWS** asked how many students could be promised to enter the program at the university, if the program were reinstated. **Lynn Harris** said she couldn't give any guarantee. **Jim Smith, Montana Speech, Language and Hearing Association**, said that program had about 20 graduates each year and his current educated guess was if the program returned to the university, there would again be about 20 graduates each year.

**SEN. TOEWS** asked the same thing of **Dick Boehmler**, who was on staff at the time the program was part of the University

curriculum. He said they were turning out about 10 masters level graduates per year and 100% were employed. The ratio of in-state and out-of-state students both as graduates and those enrolled in the program itself was about half and half.

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**SEN. TOEWS** asked what percentage of the masters program could be done through distance learning. **Mr. Boehmle** said he wasn't sure, but thought about half of the program could be completed in that way. He also handed in his written testimony

**EXHIBIT (eds52a31) .**

**SEN. GLASER** asked to look at the minutes of the hearing. **Linda Solem** said they were submitted during the testimony.

**Closing by Sponsor:**

**REP. MATT MCCANN** addressed the amendments in **(EXHIBIT 9)** and said the bill really didn't address "audiologists" so it could come out of the bill. Also, if #3 would make the bill pass, it would be acceptable; however, it should be remembered the intent of the bill was for these people to move on to become master's level licensees. As for #4, he said he didn't mean to delete that language from the bill when it was amended on the House Floor. He said there was concern that if the people were unlicensed, Medicaid dollars would not return to the schools; however, it should be remembered this was happening today with aides and pathologists so the schematic wouldn't be changed a great deal. He reiterated he could not craft a bill which would make everyone happy; rather, common sense should rule in making the decision.

**REP. MCCANN** maintained a problem had existed for years, and all of a sudden a Board was going to get in gear to try to address the problem with rules. He was of the opinion Montana's children deserved better; however, he didn't mean the severely disabled in whatever manner, because those children wouldn't be handled by persons at the bachelor's level. He argued **HB 301** was a tool for addressing problems in rural Montana and in communities which were not receiving services because pathologists bounced from one community to the next to tell the aides how to deal with the children. The reason for the retroactive applicability date was to allow school districts to take advantage of the bill, if it passed, for this current fiscal year.

**{Tape : 2; Side : A; Approx. Time Counter : 14}**

**CHAIRMAN DARYL TOEWS** relinquished the chair to **VICE CHAIRMAN BILL GLASER** because he needed to attend another meeting.



HEARING ON HB 125

Sponsor: REP. ROYAL JOHNSON, HD 10, Billings

Proponents: Karen Strege, State Librarian  
Jeanne Tweeten, Librarian, Capital High, Helena  
Kathy McGowan, Montana Library Association  
Don Waldron, Montana Rural Education Association

Opponents: None

Opening Statement by Sponsor:

REP. ROYAL JOHNSON, HD 10, Billings, said this bill was a clean-up bill for the State Library Commission and spelled out its purpose in the title. The first part cleaned up the type of library loans which were not eligible for reimbursement and the second part took care of the Commission's rulemaking authority insofar as the federations were concerned. He said the state aid to libraries was on a per capita basis, which was already in current law. The third part of the bill dealt with the task force which was in place for the past couple of years and was the result of the Library Commission to clean up the legislation.

Proponents' Testimony:

Karen Strege, State Librarian, read her written testimony **EXHIBIT**(eds52a32) .

Jeanne Tweeten, Librarian, Capital High, Helena, read her written testimony **EXHIBIT**(eds52a33) .

Kathy McGowan, Montana Library Association, said they chose to make this one of their priorities when they met last May and they supported this bill. She submitted a letter from one of their members **EXHIBIT**(eds52a34) .

Don Waldron, Montana Rural Education Association (MREA), said school districts supported the bill and they appreciated the cooperation.

Opponents' Testimony: None.

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Questions from Committee Members and Responses:

**SEN. JON ELLINGSON** asked for explanation of the reimbursement program. **REP. ROYAL JOHNSON** said it was libraries which borrowed from another library. At the time the request was made, they got \$6.50 from the state. He said this bill ensured libraries in the same town or libraries which were in the same program together weren't getting reimbursed.

**Closing by Sponsor:**

**REP. ROYAL JOHNSON** said he closed, explaining the legislative committee worked with the State Library Commission and both entities were in agreement as they moved along.

**ADJOURNMENT**

Adjournment: 5:07 P.M.

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SEN. DARYL TOEWS, Chairman

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JANICE SOFT, Secretary

DT/JS

**EXHIBIT (eds52aad)**